IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO.1752 OF 2004

Mohammed Raias alias Pappu Kalya, .. Applicant

Vs

The State of Maharashtra, .. Respondent

Mr A.P.Mundargi with Ms Manisha Patil, for the applicant.

Mr K.V.Saste, APP for the respondent.

CORAM : D.B.BHOSALE,J.

DATE : 17th AUGUST, 2004.

PC:

1. Heard Mr.Mundargi, learned counsel for the applicant and Mr.Saste, learned A.P.P for the respondent.

2. The applicant has been shown arrested in Sessions Case No.245 of 2003 arising out of C.R.No.239 of 2002 registered at Shivaji Nagar Police Station under sections 302, 307,341,120-B of Indian Penal Code.The applicant and four others are alleged to have conspired to do away one Tangaswami. It is alleged that co-accused Goverdhan, Shanu and Akbar committed murder of Tangaswami by means of iron rods. I have perused the statements of Subhash Yangad and Tangraj Nadar who claim that they had seen the occurrence. Both these witnesses have stated that they had seen the applicant along with

co-accused Goverdhan, Shanu and Akbar discussing something just before the occurrence. However, none of them has stated that he overheard their conversation. All the accused are residents of same locality. Admittedly, the applicant did not participate in the assault given by the aforesaid co-accused. He was not even present when the deceased was assaulted. It is now well settled that even in a case the accused are tied up with the aid of section 120-B, the role of each person can certainly be evaluated for the purpose of bail and those whose role is not serious can be more liberally considered. Keeping that in view and considering the overall facts and circumstances of the case, I am inclined to enlarge the applicant on bail.

3. The applicant is directed to be enlarged on bail on his furnishing a personal bond of Rs.15,000/- with one or two sureties of the like amount to the satisfaction of the trial Court, subject to the condition that he shall not enter within the jurisdiction of Shivaji Nagar Police Station pending his trial. The applicant shall keep informed his address to the concerned police station of the place where he proposes to stay after his release on bail pending trial and shall report to the nearest police station from the place of his residence on every Saturday between 10 am and 11 am until the

conclusion of his trial. Liberty to the applicant to apply for modification of the conditions if trial does not start within 9 months from today.

. While allowing this application, I shall not be understood to have expressed any opinion on merits of the case. The Sessions Court shall decide the case uninfluenced by the observations made in this order.

(D.B.BHOSALE, J.)